

Stamp Duties Consolidation Act 1999

Part 9: Section 126AB - Further levy on certain financial institutions

This document should be read in conjunction with section 126AB of the Stamp Duties Consolidation Act 1999.

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1 Introduction

Section 126AB of the Stamp Duties Consolidation Act (SDCA) 1999 provides for a levy in the form of a stamp duty to be paid by certain financial institutions. The financial institutions concerned are:

- Allied Irish Banks plc,
- EBS DAC,
- permanent TSB plc, and
- the Governor and Company of the Bank of Ireland.

These financial institutions received assistance from the State during the global financial crisis.

The levy will initially be payable for the year 2024 only, with a target yield for the year of €200 million. It will be charged at a rate of **0.122%** on an amount equal to the total value of **relevant deposits** held by the liable financial institutions on **31 December 2022** (referred to in section 126AB as the **assessable amount**).

The levy replaces a previous form of levy payable by certain financial institutions, which was provided for by section 126AA SDCA 1999. The previous levy was based on a percentage of the Deposit Interest Retention Tax paid by financial institutions in a specified year.¹

2 Calculation of levy

The levy will be charged at a rate of 0.122% on an amount equal to the total value of **relevant deposits** held by the liable financial institutions on 31 December 2022 (referred to in section 126AB as the **assessable amount**).

The term “relevant deposit” is defined in section 126AB(1) and means a **deposit** (as defined) which is held by a liable financial institution and is an **eligible deposit** (as defined). Section 126AB(1) further provides that the terms “deposit” and “relevant deposit” are to take their meaning from the European Union (Deposit Guarantee Schemes) Regulations 2015 (“the Regulations”)². These Regulations transposed the Bank Recovery and Resolution Directive (BRRD) into Irish law and provide for the Deposit Guarantee Scheme.

In the Regulations, the term “deposit” is defined to mean a credit balance which results from funds left in an account or from temporary situations deriving from normal banking transactions and which a credit institution is required to repay, or may be required to repay at a future date, under the legal and contractual conditions

¹ Further information on the previous levy as provided for in section 126AA SDCA 1999 is available [here](#).

² <https://www.irishstatutebook.ie/eli/2015/si/516/made/en/pdf>

applicable, including a fixed-term deposit or a savings deposit, but excluding a credit balance where:

- its existence can only be proven by a financial instrument (as defined in Article 4(17) of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004³) other than where it is a savings product which is evidenced by a certificate of deposit made out to a named person and which existed in the Member State concerned on 2 July 2014,
- its principal is not repayable at par, or
- its principal is only repayable at par under a particular guarantee or agreement provided by the credit institution or a third party.

In the Regulations, the term “eligible deposit” is defined to mean a deposit that is not excluded from protection pursuant to Regulation 10 of the Regulations. Regulation 10 reads as follows:

10. (1) The following shall be excluded from any repayment by the designated authority under a deposit guarantee scheme:
- (a) subject to Regulation 12(4) and (5), deposits made by other credit institutions on their own behalf and for their own account;
 - (b) own funds, as defined in point (118) of Article 4(1) of the Union Capital Requirements Regulation;
 - (c) deposits arising out of transactions in connection with which there has been a criminal conviction for money laundering, as defined in section 2(1) of the Act of 2010;
 - (d) deposits by financial institutions;
 - (e) deposits by investment firms, as defined in Regulation 3(1) of the European Communities (Markets in Financial Instruments) Regulations 2007 (S.I. No. 60 of 2007);
 - (f) deposits the holder of which has never been identified pursuant to Part 4 of the Act of 2010, when they have become unavailable;
 - (g) deposits by insurance undertakings and by reinsurance undertakings as referred to in Article 13(1) to (6) of Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009;
 - (h) deposits by collective investment undertakings;

³ [OJ No. L 145, 30.04.2004, p. 1](#) -

- (i) deposits by public authorities;
 - (j) debt securities issued by a credit institution and liabilities arising out of own acceptances and promissory notes;
 - (k) deposits by a pension scheme or retirement fund (other than a small self-administered pension scheme).
- (2) Credit institutions shall mark eligible deposits in a way that allows the immediate identification of such deposits.

In order to determine the **assessable amount** for the year **2024**, the liable financial institutions are to refer to the sums reported **in lines 0110 and 0310** of the Liability Data Return (LDR) they submitted to the Central Bank of Ireland (CBI) for **2022**.⁴ Eligible deposits are reported on the LDRs and comprise two components:

- Line 0110 reports Covered Deposits (as defined in Article 44 (2)(a) of the BRRD), and
- Line 0310 reports Deposits, not covered but preferential (as defined in Article 108 of the BRRD).

Credit institutions licensed to operate in Ireland are required to make annual LDRs to the CBI. The LDRs for 2022 were submitted to the CBI in March 2023 with a reference date of 31 December 2022. However, the credit institutions and the CBI engage in a validation process following the submission of the annual LDRs. This can result in the submission of revised LDRs to the CBI. Accordingly, for the purposes of calculating the levy due for **2024**, it will be necessary to refer to the sums reported in lines 0110 and 0310 of the **final validated LDR** submitted by the liable financial institutions for **2022**. The total amount of these sums will be the assessable amount for the year 2024, with the amount of levy payable being 0.122% of that assessable amount.

3 Rate of levy

The **0.122%** rate has been calibrated in order to achieve the target revenue of €200 million for 2024. It is important to note that section 126AB, as introduced by the Finance (No. 2) Act 2023, provides for a lower rate of **0.112%** to be applied. However, on 28 November 2023, the Minister for Finance announced that he intended to adjust the rate of the levy from **0.112%** to **0.122%**. The Minister stated that a technical inconsistency had been identified, which meant that it was necessary to adjust the rate to ensure that the full €200 million would be collected in

⁴ <https://www.centralbank.ie/regulation/how-we-regulate/resolution-framework/resolution-planning>

2024. The Minister confirmed that he would make the relevant legislative change at a future point.⁵

4 Pay and file obligations

For the year 2024, the liable financial institutions will be required to file a statement with Revenue on or before **20 October 2024** showing the assessable amount, as calculated by reference to the final validated LDR submitted for 2022. The levy will be payable on delivery of the statement and is to be paid through the RevPay system.

5 Provision of particulars

Section 126AB(7) provides that where Revenue requires any particulars in relation to a statement that is required to be delivered by a liable financial institution under the section, the financial institution concerned is to provide those particulars to Revenue.

6 Assessments

Where a liable financial institution has failed to file a full and true statement with Revenue in accordance with section 126AB, **section 126B SDCA 1999** provides that Revenue may make an assessment on the financial institution of the amount of stamp duty which, to the best of their judgment, would have been charged on the statement if full and proper statement had been filed.

A Revenue assessment made under section 126B may be appealed to the Appeal Commissioners if a statement has first been filed by the financial institution concerned and the amount in the Revenue assessment has been paid.

7 Surcharge, interest and penalties

Where a liable financial institution fails to deliver a correct statement on or before the due date, **section 126C SDCA 1999** provides for the stamp duty chargeable to be increased by a surcharge that is equal to:

- 5% of the amount of the stamp duty, subject to a maximum of €12,695 for delays in delivery of less than 2 months, and

⁵ <https://www.oireachtas.ie/en/debates/debate/seanad/2023-11-28/13/>.

- 10% of the amount of the stamp duty, subject to a maximum of €63,485 for delays in delivery of 2 months or more.

In accordance with section 126AB(5), interest will apply, in addition to the duty, in the event of late payment. Interest will be calculated in accordance with **section 159D SDCA 1999** from the due date of the statement to the date the duty is paid.

Section 134A SDCA 1999 provides for a penalty of €1,265, and a further tax-geared penalty, to be applied where a person acts deliberately or carelessly in relation to the filing of a stamp duty return, which includes a statement that is required to be delivered under section 126AB. For further information on the application of section 134A, see Stamp Duty Manual [Part 10: Enforcement](#).

8 Levy not allowable as a deductible expense

In accordance with section 126AB(8), the levy paid (and any interest or penalties paid in relation to the levy) cannot be claimed as a deduction or credit in computing any tax or duty under the care and management of Revenue that is payable by the financial institution concerned.